

Notice of Allowability

Application No.

10/018,080

Examiner

Sang H Nguyen

Applicant(s)

ELSENHANS ET AL.

Art Unit

2877

NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 01/20/04.
2. ☒ The allowed claim(s) is/are 51-77 which have been renumbered as indicate 1-27.
3. ☒ The drawings filed on 10 December 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

DETAILED ACTION

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance: Applicant's response to amendment filed on 01/20/04, as to independent claim 51, the prior arts of record, taken alone or in combination, fails to disclose or render obvious a method for measuring a concentration of hemoglobin and bilirubin in a sample of blood serum or blood before analysis the sample by an in vitro diagnostic method comprising all the specific elements with the specific combination including of carrying out a first method step for determining the concentration of hemoglobin in the sample with the step including the fitting of the first approximated spectrum $E1(\lambda)$ to said first measured extinction spectrum $E1(\lambda)$ being performed by varying the concentration $C(H)$ of hemoglobin and the coefficients $a(0h)$, $a(1h)$, so that a deviation between the first measured extinction spectrum $E1(\lambda)$ and the first approximated spectrum $E1(\lambda)$ is minimized in order to determine the concentration $C(H)$ of hemoglobin and carrying out a second method step for determining the concentration of bilirubin in the sample with the step including the fitting of the second approximated spectrum $E1(\lambda)$ to said second measured extinction spectrum $E1(\lambda)$ being performed by varying the concentration $C(B)$ of bilirubin and the coefficients $a(0b)$, $a(1b)$, so that a deviation between the second measured extinction spectrum $E1(\lambda)$ and the second approximated spectrum $E1(\lambda)$ is minimized in order to determine the concentration $C(b)$ of bilirubin, in combination with the rest of the limitations of claim 51.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner Sang Nguyen whose telephone number (703) 308-6426. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Mr. Frank Font, can be reached on (703) 308-4881. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722 or 7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Nguyen/ sn



January 23, 2003



Frank G. Font
Supervisory Patent Examiner
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Richard A. Rosenberger
Primary Examiner